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AZ CORP COMMISSION
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Arizona Corporation Commission

DOCKETED

JUN 23 2010

Commissioner Kristin Mayes
Chairman
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

DOCKETED BY

Re: Mayes Proposed Amendment #1 to SolarCity's Application for Determination of
Non-Public Service Corporation Status (Docket No. E-20690A-09-0346)

Dear Chairman Mayes:

My company, like other full-service solar providers, is greatly affected by the outcome of the SolarCity adjudication case. Any type of Commission regulation will harm the emerging solar-distributed market for governmental and non-profit customers. GCS strongly supports your well-reasoned amendment to reverse the Administrative Law Judge's recommended order. As such, I am offering comments on your docketed amendment.

GCS does not believe that SolarCity when using SSAs is acting as a public service corporation under the literal and textual reading of the Arizona State Constitution. Furthermore, the *Serv-Yu* factors do not trigger Commission regulation of SolarCity and other full-service solar companies. Considering the evidence presented in this case, I believe that SSAs should not be subject to Commission regulation, even if it is "light-handed."

From my reading, your amendment employs a different legal analysis than Commissioner Pierce's Proposed Amendment #1. It limits the discussion to the facts and circumstances of the SolarCity's application, applying the eight *Serv-Yu* criteria and considering the public interest as the basis for rejecting the recommended order. You rightly conclude that SolarCity's business activities are not focused on "furnishing" electricity, but rather on providing assorted services — designing, financing, installing, monitoring and maintaining solar PV systems — to residential and commercial customers.

It clear that SolarCity does not wish to replace the incumbent utility, which has the provider of last resort obligations and is, in fact, the actual public service corporation. SolarCity, like other solar developers that use SSAs, seeks to sell solar equipment to

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governmental and non-profit entities for the purpose of reducing their electricity costs. The SSA is merely the financing mechanism by which this objective is accomplished.

Having the Commission regulate the use of SSAs will only increase costs for our governmental and non-profit customers and appreciably slow the installation of distributed solar in Arizona. Therefore, we urge the Commissioners to adopt either your amendment or the Pierce Amendment.

Thank you for your consideration.

Yours truly,



Herbert Abel
Chief Executive Officer

Cc: Commissioner Gary Pierce
Commissioner Sandra Kennedy
Commissioner Paul Newman
Commissioner Bob Stump